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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,605	03/30/2004	Gunther Schiller	SCHILLER - 1	4379
25889	7590	12/08/2008		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER DANIELS, MATTHEW J	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			12/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,605

Applicant(s)

SCHILLER, GUNTHER

Examiner

MATTHEW J. DANIELS

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (USPN 4957424) in view of DE 1646760 and Crum (USPN 3069875). **As to Claim 15**, Mitchell teaches a method for the production of a multi-layer concrete pipe, comprising the steps:

pivoting a mold mantle, which stands essentially vertically on a turntable, into a first stand (Fig. 1); filling the mold mantle with a first concrete mixture by means of a first charging system (Fig. 1, item 10);

distributing and compacting the concrete mixture in the mold mantle by means of a rotating and vertically displaceable first compacting tool (Fig. 2, Item 38);

pivoting the mold mantle, which stands essentially vertically on the turntable, out of the first stand and removing a concrete pipe formed from the concrete mixture from the mold (Fig. 1, Item 23).

Mitchell is silent to the other limitations drawn to the second concrete mixture and the changing of tools. However, these aspects would have been prima facie obvious for the following reasons:

DE 1646760 teaches application of a second concrete mixture, which is an acid-resistant concrete mixture (page 5, top) applied with a second charging system (Fig. 2, item 6) and a second core (4) having a smaller diameter than the first core (3). DE 1646760 also suggests switching between the first core (3) and the second core (4) using a lift device. Although DE 1646760 is silent to the quick change device, quick change universal drive shafts are conventional in the art and are disclosed by Crum. In view of DE 1646760's suggestion to change cores devices, one would have obviously sought the fastest means for changing core tools. Since Crum teaches that one of the benefits of the universal drive shaft is its "quick-change" configuration which appears to be separable merely by pulling the device from the tool (Figs. 2 and 3), one would have found it obvious to use DE 1646760 and Crum in combination.

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of DE 1646760 and Crum into that of Mitchell because doing so would provide a composition having improved resistance to acid and moisture on the inner surface of the pipe, and improve the speed of exchanging tools. The use of a particular drive means is not distinguishing since one of ordinary skill in the art would recognize that many quick-change or attachment devices are interchangeable or substitutable. The combination of DE 1646760 with Mitchell appears to achieve a predictable result by applying a known technique (lining a pipe) to a process ready for such improvement (Mitchell provides a process of making a pipe).

Response to Arguments

2. Applicant's arguments filed 28 August 2008 have been fully considered but they are not persuasive. The arguments appear to be on the grounds that (a) the Meyer process is inoperative since the material would fall off the mold, (b) the vibrating core is removed from the concrete pipe and the pipe is then transported to a stockyard for hardening, which is different from the present application, and (c) combining Crum with these references would not lead to the claimed invention because none of them teaches or suggests that the second concrete mixture is filled into the mold mantle before the pipe is removed from the mold.

3. These arguments are not persuasive in view of the enclosed translation of the Meyer reference, and because there is no support for Applicants' position regarding inoperability. The compacting effect of the Meyer device (3) would obviously change the nature of the material such that it would exist as a pipe instead of as a slurry. It is not suggested by Meyer that the device must retain an inner support to avoid sliding or falling off of the concrete material used to fabricate the pipe. Instead, the *traditional method* removed the core (3) and placed the part in a storage site for further hardening. Meyer suggests that this process is operative by itself because there is no requirement that the core be replaced by some other type of interior support.

Additionally, page 5 of the translation suggests that Applicants' remarks drawn to transportation to a stockyard for hardening are drawn to Meyer's assessment of the prior art, rather than to the inventive concept of the Meyer process. The translation of Meyer states that "*in the past* [the concrete pipe] was removed with a lifting device and placed on a storage site for further hardening." (Translation 5). The Meyer process shows the device *as changed* by the Meyer invention wherein after the core has left the freshly made concrete pipe, a second core or piston

is inserted and a coating is applied. (Translation 5). After some hardening, the device is retracted and the sealed pipe can be removed. (Translation 6). It is submitted that there is little difference with the claimed invention. Although Meyer's process itself might be said to include a "quick-change device", Crum is also interpreted to provide a quick-change device, and the arguments do not dispute this teaching or the stated rationale for the combination.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. DANIELS whose telephone number is (571)272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew J. Daniels/
Primary Examiner, Art Unit 1791
12/4/08